

**REMARKS/ARGUMENTS**

Claims 1, 4-7, 9-20, 35-43, 45-46, 48-51, and 55-63 are pending in the present application. Claims 1, 13, 35, 39, 43, 46 and 59 have been amended. Claims 2-3, 8, 21-34, 44, 47, and 52-54 have been canceled. No new matter has been added. Reconsideration of the rejected claims is respectfully requested.

On March 17, 2010 an interview occurred between the undersigned and the Examiner. The undersigned thanks the Examiner for her thoughtful consideration of the arguments presented by the undersigned.

**I. REJECTIONS UNDER 35 U.S.C. § 112**

In the Office Action claims 35-42 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asked for clarification about “the input by the participant at the acceptance point device.” *See* Office Action at 2-3.

Paragraphs 27, 29 and 36 describe how a participant may utilize a GUI provided by an Internet system or a keypad associated with an acceptance point device to indicate a change in participation status. Accordingly, withdrawal of this rejection is respectfully requested.

**II. REJECTIONS UNDER 35 U.S.C. § 102**

In the Office Action claims 1, 4-7, 9-20, 35-43, 45-46, 48-51, 55-56 and 59-63 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 7,032,047 to DiRaimondo et al. This rejection is traversed.

Anticipation has not been established because DiRaimondo fails to teach or suggest each and every claim limitation in each of the independent claims pending in this application.

**A. DiRaimondo Does Not Teach or Suggest “receiving, by an acceptance point device, an indication from the loyalty program participant using a keypad associated with the acceptance point device, to change the participation status in the loyalty program from a first status to a second status”**

Embodiments of the invention allow a loyalty program participant to directly change his or her status in a loyalty program. DiRaimondo does not disclose any way that a participant in a loyalty program can change his or her status in the loyalty program. Instead, the criteria to determine loyalty program eligibility in DiRaimondo is set by the service providers, system operators, and/or system owners for the loyalty program. Col. 8, line 62 – Col. 9, line 18. The only control a consumer has over the smart card in DiRaimondo is to report a physical status change to customer support such as to report that a card that is lost or stolen. Col. 4, lines 34-41. Simply allowing a consumer to report a card lost or stolen is not the same thing as allowing a loyalty program participant to directly change his or her status in a loyalty program.

In the present Office Action at page 11, the Examiner responds to the above argument stating that:

It is unclear what step is performed by the participant for the participant to directly change the status. As claimed it is clear that the status of the parameter is changed by the acceptance point device but what the participant does for the device to change the status is not clear.

Accordingly, independent claims 1, 13, 35, 39, 43 and 46 have been amended to further clarify what the participant does for the device to change status (e.g., “using a keypad associated with the acceptance point device” or “using a graphical user interface”). Support for these amendments can be found at least at paragraphs 27, 29 and 36. In the interview, the Examiner indicated that such amendments may overcome the current rejection.

In the interview, the Examiner also suggested associating each step of the methods to the acceptance device or Internet system. Accordingly, claims 1, 13 and 59 have been amended so that each step is associated with the acceptance point device or Internet system.

For at least the foregoing reasons, DiRaimondo does not anticipate (or obviate) independent claims 1, 13, 35, 39, 43 and 46, or any claims dependent thereon.

**B. DiRaimondo Does Not Teach or Suggest “receiving card image data from the portable device,” “modifying the parameter in the card image data,” and then “updating the card image data in the portable device with the modified parameter”**

Additionally, DiRaimondo does not teach or suggest “receiving card image data from the portable device,” “modifying the parameter in the card image data,” and then “updating the card image data in the portable device with the modified parameter.” At best, DiRaimondo describes a card acceptance location that queries stored lists to determine whether a smart card is on the list, and if it is on the list, it “issues a command to the smart card to update the loyalty/concession parameter on the smart card.” Col. 11, lines 14-19. This is different from actually receiving the card image data, modifying that data, and then updating the card image data in the portable device.

For this additional reason, DiRaimondo does not anticipate (or obviate) independent claims 1, 13, 35, 39, 43, 46 and 59 or any claims dependent thereon.

**III. REJECTIONS UNDER 35 U.S.C. § 103**

In the Office Action claims 53 and 57-58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DiRaimondo in view of U.S. Pat. No. 6,736,317 to McDonald et al. This rejection is traversed. McDonald is cited to address the features in these dependent claims but does not remedy the deficiencies of DiRaimondo as explained above.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

Respectfully submitted,



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